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E.O. 12958: DECL: 12/03/2018
TAGS: IS MARR MCAP PARM PINS PREL
SUBJECT: DEMARCHE: CLUSTER MUNITIONS LETTER EXCHANGE

REF: A. 08STATE34247
¶B. 08TELAVIV1012

Classified By: PM AA/S FRuggiero, E.O.12958, 1.4 (b) and (d)

¶1. (U) This is an action request. Please see paragraph 2.

OBJECTIVE

¶2. (S) Department requests Embassy Tel Aviv seek Ambassador's signature and deliver the classified letter and clarifications in paragraphs 3 and 4 to Israeli MOD Barak at the earliest possible opportunity. The expected classified response from the GOI is included at paragraph 5. Per the request from the Israeli Embassy in Washington, Post should seek to deliver the U.S. letter and secure the GOI letter from Minister Barak NLT December 18. If Minister Barak is unavailable, Post should approach MOD Director General Buchris. Department notes that these letters have been pre-approved with the GOI through the Israeli Embassy in Washington.

¶3. (S/REL ISRAEL) BEGIN TEXT OF U.S. LETTER (TO BE SIGNED BY THE AMBASSADOR):

Your Excellency:

I have the honor to refer to our recent discussions in the Cluster Munitions Working Group (CMWG) meetings in Tel Aviv and Washington, during which the United States Government and the Government of Israel agreed that it was in the mutual interest to ensure that both governments have a clear understanding of the 1978 and 1988 agreements regarding Israel's use of cluster munitions sold and/or licensed by the United States and/or manufactured with U.S.-origin components or technology. It is critical that the agreements are upheld in their entirety.

The U.S. commitment to Israel's security and well-being has been a cornerstone of U.S. policy in the Middle East for decades. We understand Israel faces aggressions from organizations which are equipped in a manner similar to military forces of a state. The agreements are not intended to constrain Israel's ability to defend itself. As discussed at the CMWG, the United States Government is committed to working with the Government of Israel toward access to cluster munitions in accordance with U.S. law.

The United States Government appreciates steps the Government of Israel and the Israeli Defense Forces have taken to date, including the implementation of recommendations outlined in the Military Advocate General and Winograd reports. It is the understanding of the United States Government that the Government of Israel is prepared to confirm in writing that it intends to comply with obligations pursuant to the 1978 and 1988 agreements as identified in the attachment to this letter.

We are pleased to note the importance both sides attach to

the provision of the appropriate information to assist the clearance of cluster munition unexploded ordnance (UXO), subject to their security interests. As such, the United States Government intends to request that the Government of Israel provide appropriate information to assist in the cleanup of any UXO resulting from Israel's use of cluster munitions.

Accept, your Excellency, the renewed assurances of my highest consideration.

END TEXT OF U.S. LETTER

¶4. (S/REL ISRAEL) BEGIN TEXT OF CLARIFICATIONS TO BE ATTACHED TO U.S. LETTER:

CLARIFICATIONS REGARDING ISRAEL'S IMPLEMENTATION OF OBLIGATIONS REGARDING THE USE OF CLUSTER MUNITIONS

The following clarifications reflect the understandings of the United States Government and the Government of Israel regarding the manner in which the Government of Israel is to implement obligations established by the agreements of 1978 and 1988. Those agreements, together with the following clarifications on the manner in which Israel is to comply with obligations pursuant to the agreements, apply to all types of cluster munitions (including delivery and dispensing equipment) sold or licensed by the United States previously or in the future, or cluster munitions manufactured with U.S. origin components or technology, previously or in the future (hereinafter "cluster munitions").

Authorization: The 1988 agreement requires that Israel will not use cluster munitions unless the Defense Minister or a higher political authority directs their use after specifically determining that the proposed use is consistent with the 1978 and 1988 agreements.

Notification: The 1988 agreement requires that the Government of Israel notify the United States Government promptly whenever it has commenced using cluster munitions. The Government of Israel is to notify the United States Government via written demarche to the Assistant Secretary of State for Political-Military Affairs.

Periodic Reports: The 1988 agreement requires that the Government of Israel will provide, upon request by the United States, periodic reports of when and where cluster munitions have been used. The Government of Israel is to provide such reports as soon as practicable and to the extent possible. This should include: date and time of employment, target coordinates (including eight digit grid map coordinates when they exist), and quantity by nomenclature. Israel is to report this information, taking into account availability of such information, and consistent with the Israel Defense Forces' revised documentation procedures, including steps toward automation.

Confidentiality: Any information provided in accordance with the 1978 and 1988 agreements is to be kept confidential and not to be transferred without specific written consent by the Government of Israel.

Additional Issues: Israel recognizes the need for clear and unambiguous orders regarding the use of cluster munitions, consistent with the applicable agreements.

"General Hostilities": As stated in the 1988 agreement, the words "general hostilities" in the 1978 agreement refer to hostilities with regular military forces or units of foreign states, or other organizations which are equipped and organized in a manner similar to regular military forces of a state, on the scale described in that agreement.

END TEXT OF CLARIFICATIONS TO BE ATTACHED TO U.S. LETTER.

¶5. (S/REL ISRAEL) BEGIN TEXT OF GOI REPLY:

Your Excellency:

I have the honor to refer to your letter of (date).

I am authorized to confirm on behalf of the Government of Israel that it intends to comply with obligations pursuant to the 1978 and 1988 agreements as identified in the attachment to your above mentioned letter. Your Excellency's letter, together with this reply, reflects the shared understanding between the Government of Israel and the Government of the United States of America.

Accept, Your Excellency, the renewed assurances of my highest consideration.

END TEXT OF GOI REPLY.

REPORTING DEADLINE

¶ 16. (SBU) Department appreciates Post's assistance with this issue. Post should deliver the signed classified letter and clarifications and secure a signed response from the GOI NLT December 24. Department requests Embassy Tel Aviv send a certified copy of the U.S. and GOI letters to L/T (Daphne Cook in HST Room 5420), with scans of both documents to PM/RSAT (John Schwenk), L/PM (Michael Coffee), L/T (Daphne Cook), and NEA/IPA (Jonathan Peccia). Should Post have any questions, the point of contact for this issue is PM/RSAT: John A. Schwenk, schwenkja@state.sgov.gov, 202-647-2558.

BACKGROUND

¶ 17. (S) As agreed at the March 20 Joint Political Military Group meeting, the U.S. and GOI met via a U.S.-Israel Cluster Munitions Working Group (CMWG) to resolve outstanding concerns regarding Israel's use of cluster munitions during the Summer of 2006. The CMWG, led State/PM PDAS Frank Ruggiero and Israeli MOD/POL-MIL Bureau Aharon Shahar, met in May and June in Tel Aviv and Washington, respectively. Between the first and second CMWG meetings, the U.S. side offered a proposal to clarify how the GOI will comply with the 1978 and 1988 classified agreements regarding cluster munitions use, and the GOI responded with a counter-proposal.

The parties negotiated the clarification text at the second CMWG in the hope of using an exchange of letters on the clarifications as a capstone to the CMWG meetings.

¶ 18. (S) At the second CMWG, PDAS Ruggiero underscored that the USG's intent was not to rewrite the agreements, but only to clarify how the GOI would abide by them. He cautioned that if the GOI wanted to add new elements that do not exist in the existing agreements (e.g., WRSA-I stocks and sensor fuzed weapons), the parties would have to extend the talks. Both parties agreed that clarifying the manner in which the GOI would comply with existing obligations was preferable to creating a new classified agreement.

¶ 19. (S) The Department has worked with the Israeli Embassy in Washington to reach USG and GOI agreement on language for the exchange of letters on how the GOI will comply with the 1978 and 1988 classified agreements.

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